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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,240	04/22/2004	Helmut Fitz	2004-0577A	7223

513 7590 01/25/2006

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EXAMINER

GABLER, PHILIP FRANCIS

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/829,240	Applicant(s) FITZ, HELMUT	
	Examiner Philip Gabler	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rollers adjustable with respect to height of claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The disclosure is objected to because of the following informalities: the numbering of elements appears to be incorrect. The two rails (carrier and extension) are labeled as 1 and 4 on line 10 of page 3, rather than 2 and 4 as previously indicated. Element 1 appears to be the extension guide fitting assembly. However, this too is unclear as element 1 is not mentioned elsewhere.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear how the support rollers are mounted to be adjustable with respect to height. The specification says only that the rollers are displaceably mounted, and the drawings offer no suggestion of adjustability. For the disclosure to be enabling, some explanation of this adjustability must be given.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 1, the two "wherein" phrases beginning on lines 5 and 7 of the claim, respectively, are nearly identical and appear to be a case of double inclusion (i.e. only one of the phrases was intended for inclusion in the claim). Accordingly, it is unclear whether "a stationary support roller," "at least two support rollers," or some combination thereof is intended.

7. Claims 2-9 are deemed indefinite for being dependent on an indefinite claim.

8. Claims 2-7 recite the limitation "the at least two stationary support rollers" in lines 1 and 2 of each claim. There is insufficient antecedent basis for this limitation in the claims.

9. Claim 9 recites the limitation "the shaft of the rocker member" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 and 4-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Dykstra (US Patent Number 4482066). Dykstra (Figures 1-4) discloses an extension guide fitting (12) for a drawer or shelf comprising an extension rail (41) at the drawer/shelf side, a carrier rail (72) at the furniture body side, and a middle rail (50, 52) which runs between those two rails at both sides of the drawer/shelf, wherein the load between the rails is transmitted by means of running rollers (63, 64) which are mounted in separate carriages (formed by 41 and 52), wherein mounted in the front region of the carrier rail is a stationary support roller (74) on which the extension rail runs (through element 52) with a running limb (viewed as element 50) and is supported at least in the closed condition of the drawer, wherein mounted in the front region of the carrier rail are at least two support rollers (74, 76) at which the extension rail runs with a running limb (viewed as element 50) and is supported at least in the closed condition of the drawer.

12. Regarding claim 4, Dykstra further discloses at least two stationary support rollers (74, 76) arranged laterally beside the middle rail (50, 52).

13. Regarding claim 5, Dykstra further discloses at least two stationary support rollers (74, 76) arranged one behind the other in the direction of displacement of the drawer/shelf.

14. Regarding claim 6, Dykstra further discloses at least two stationary support rollers (74, 76) mounted on common plates (72).

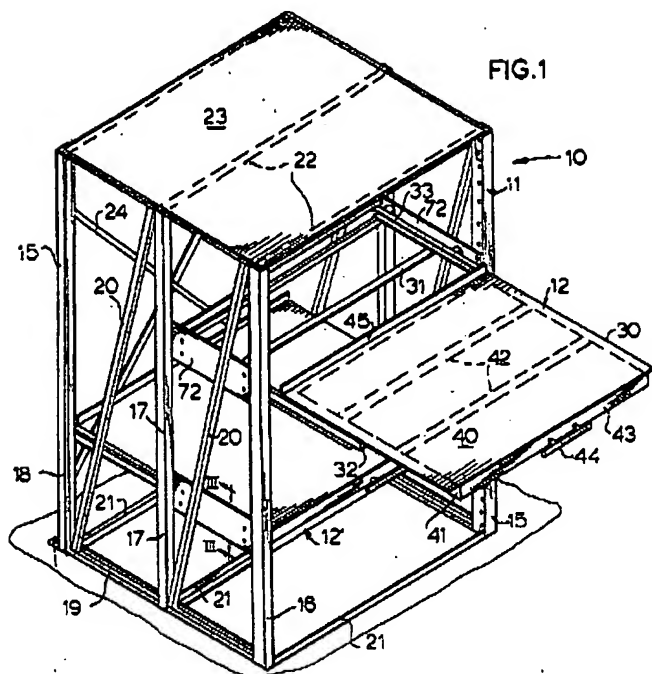


FIG. 1

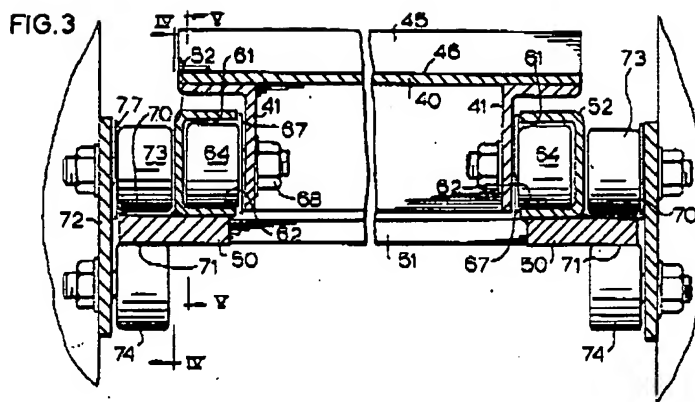


FIG. 3

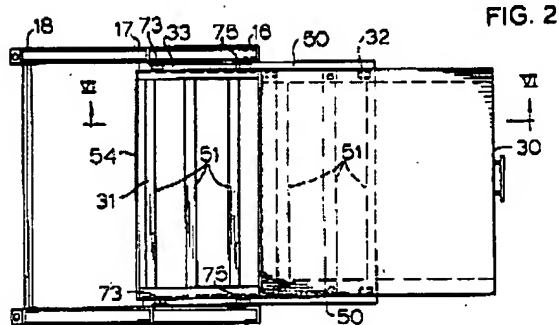


FIG. 2

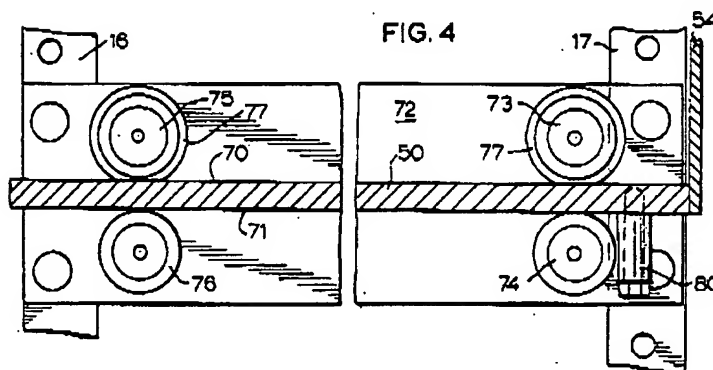


FIG. 4

Dykstra '066 Figures 1-4

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

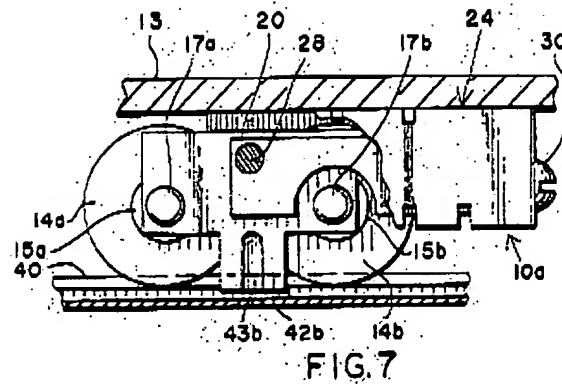
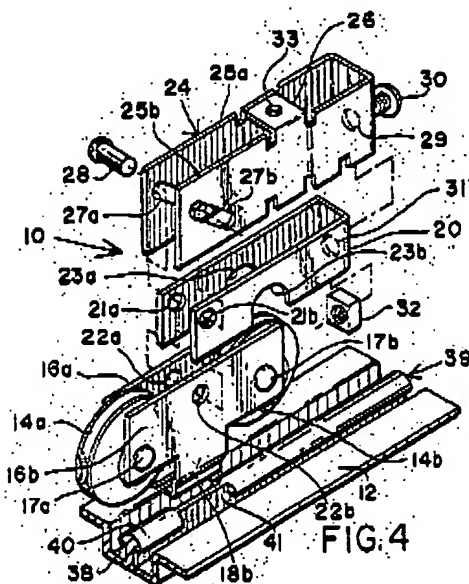
16. Claims 2, 3, and 7, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykstra in view of Moose (US Patent Number 4633615).

Dykstra discloses an extension guide fitting as recited in claim 1 but discloses only one (not two) support rollers arranged at the front end of the carrier rail. Moose (Figures 4 and 7) discloses support rollers (14a, 14b) for a sliding door mounted in pairs.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dykstra's guide fitting to use a pair of front support rollers rather than a single roller, as taught by Moose, because this arrangement would improve performance and durability.

17. Regarding claim 3, Moose further discloses the support rollers are mounted adjustably in respect of height (column 3, lines 4-10).

18. Regarding claim 7, Moose further discloses the support rollers are mounted on a rocker mount (16a, 16b), pivotally received (about element 28) in a carrier (20, see column 2 lines 29-31).



Moose '615 Figures 4 and 7

19. Claims 8 and 9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykstra in view of Moose and further in view of Kano et al. (US Patent Number 5090171). Dykstra, when modified by Moose as described above, discloses an extension guide fitting as recited in claim 1 including rollers mounted to a rocker member but does not disclose three support rollers arranged at the front end of the carrier rail. Kano (Figure 1) discloses support rollers (12) for a sliding partition mounted in a set of three including a central roller mounted to a shaft (11c) of a support member (11). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dykstra's guide fitting, previously modified by Moose, to use three front support rollers rather than a single roller, as taught by Kano, because this arrangement would improve performance and durability.



Kano et al. '171 Figure 1

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Schuette (US Patent Number 2726915), Rock (US Patent Number 4952074), and Kim et al. (US Patent Number 6478393) references are cited for disclosing various drawer guide fittings with features similar to those of the fitting of the instant application.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-

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6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFG 
1/20/2006

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